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April 9, 2020

Via Electronic Case Filing

Hon. Peggy Kuo, U.S.M.J.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Fabre, et al. v. Highbury Concrete, Inc., et al.
Dkt. No. 17-cv-984 (CBA) (PK)

Dear Judge Kuo:

As the Court is aware, this Firm represents Defendants Highbury Concrete, Inc. ("Highbury"), Thomas Gorman, Thomas Fogarty and Benny Griffin (collectively, the "Highbury Defendants"), in this litigation. The Highbury Defendants hereby submit this letter seeking a brief extension of time to complete joint-employer discovery in this matter through and including April 30, 2020.

As the Court may recall, following the parties' appearance before the Court on February 10, 2020, the Court entered a docket entry on February 11, 2020 directing, among other things, that the parties agree upon a class definition by February 14, 2020, and that the parties complete discovery regarding whether Highbury, RG Labor Services, Inc. ("RG Labor") and The Laura Group Inc. ("Laura Group") are joint employers. On this latter point, the Court directed that the parties certify to the completion of joint-employer discovery by March 23, 2020.

However, as the Court may further recall, the parties experienced difficulties in timely agreeing upon a proposed class definition by the February 14 date. After seeking intervention from the Court on this issue, the parties were ultimately able to submit a proposed stipulation concerning a class definition on February 28, 2020, and same was subsequently accepted and approved by the Court on March 4, 2020. While not allocating fault or blame for the additional two and a half weeks needed to reach a defined class, the circumstances did create delays for the Highbury Defendants in completing joint-employer discovery. Unfortunately, shortly thereafter the onset of the COVID-19 pandemic began taking shape and caused further work and business interruptions to an unforeseen degree. This caused additional complications for timely completing joint-employer discovery.

Cole Schotz P.C.

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At this time, and as a result of the foregoing, the Highbury Defendants respectfully request an extension of the March 23, 2020 joint-employer discovery deadline until April 30, 2020. Specifically, the Highbury Defendants plan to serve a limited request for documents from all named and opt-in Plaintiffs concerning Highbury, RG Labor or Laura Group, which we believe will demonstrate that those three entities were not operating as joint employers. A copy of the limited discovery demands are annexed hereto as Exhibit A for the Court's reference. Further, we do not believe that the additional discovery time will impact the dates currently scheduled for the settlement conference with Your Honor on May 6, 2020, nor the dates for submission of settlement statements in advance thereof. As such, this request is in no way intended for purposes of delay.

We thank the Court in advance for its time and attention to this request.

Respectfully submitted,

/s/ Jason R. Finkelstein

Jason R. Finkelstein

JRF:bf

cc: All Counsel of Record (via ECF)